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REMARKS

Claims 58-59, and 66-87 were previously presented. Claims 1-57 and 60-65 were previously canceled. Accordingly, claims 58-59, and 66-87 are pending examination.

Rejection of Claim 58 Under 35 USC §102(e)

Claim 58 is rejected under 35 USC §102(e) as being unpatentable over U.S. Patent No. 5,501,916 (Teramoto) in view of U.S. Patent No. 6,399,242 (Kitoh).

To support this rejection, the Office Action relies on Teramoto's Figure 9 as described in example 2. The Office Action then argues that "it would have been obvious to one of ordinary skill in the art ... to modify the tabs of Teramoto with the connecting tab locations taught by Kitoh." However, this modification would place both Teramoto's positive electrode 47 and negative electrode 48 in electrical communication with Teramoto's widing core 48. Since the winding core would provide a short between the positive electrode and the negative electrode (C8, L36-38 and C8, L49-50), the result of the suggested modification would be a shorted battery.

Since "the proposed modification cannot render the prior art unsatisfactory for its intended purpose" (heading of MPEP 2143.01) and the suggested modification results in a shorted battery, claim 58 is patentable over the cited art.

Rejection of claims 59 and 66-87 under 35 USC §102(e) or 35 USC §103

Each of claims 59 and 66-87 depends directly or indirectly from independent claim 58. Since claim 58 is believed to be in condition for allowance, claims 59 and 66-87 are also believed to be in condition for allowance.

Double Patenting

The Applicant reserves the right to present a Terminal Disclaimer in the event that the claims are allowed.
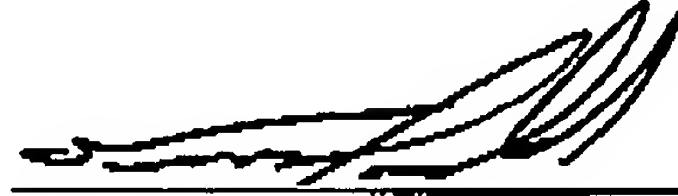
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CONCLUSION

The Examiner is encouraged to telephone or e-mail the undersigned with any questions.

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